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Christopher Moran

Excerpt

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INTRODUCTION

In 2010, governments that ruled in secret faced a new enemy: WikiLeaks. Set up by the Australian hacker Julian Assange, the once-fringe whistle-blowing website shot to world fame with a string of monumental ‘document dumps’, in what was called the largest government leak in history. Philosophically opposed to state secrecy, the Internet-based watchdog organisation first grabbed the headlines in April 2010 when it posted harrowing video footage of US Apache helicopter pilots killing a dozen men in Baghdad in 2007, including two unarmed employees of the Reuters news agency. In July, it published 75,000 battlefield reports, spanning six years, from the US military in Afghanistan. The huge cache of documents, which were made available to the *Guardian*, *Der Spiegel* and the *New York Times*, painted a devastating picture of the failing war in the country, revealing unreported civilian casualties, soaring Taliban attacks, and the fear among NATO commanders that the neighbouring states of Iran and Pakistan were aiding the insurgency. Three months later, a further 400,000 war logs were published, this time about the conflict in Iraq. With simultaneous coverage again provided by the newspapers, the documents detailed the deaths of thousands of Iraqi civilians, and suggested that the US military had ignored evidence of torture committed by Iraqi security forces against suspected insurgents. The White House condemned the website, with US Secretary of State Hillary Clinton proposing that the releases put the work and even lives of coalition forces at risk. Hawks branded Assange a ‘cyber-terrorist’ and called for his arrest, trial and possible execution. Unbowed, in late November he began unleashing

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a torrent of some 250,000 diplomatic cables from US embassies and consulates around the world, providing an unprecedented look at the hidden world of backstage international relations. The material contained brutally candid, and often unflattering, assessments of foreign statesmen, with British officials among those targeted. Cables revealed that President Obama, no less, thought Prime Minister David Cameron (then in opposition) a ‘political lightweight’ after their first meeting in 2008.¹

In the maelstrom that was WikiLeaks, governments, institutions and individuals considered important normative questions about foreign policy, free speech, secrecy and openness. The core of the debate was the age-old question of what constitutes the ‘public interest’. WikiLeaks had touched on one of the fundamental and incompatible tensions in any democratic system: the need of governments to keep secrets weighed against the right of citizens to know and criticise the policies carried out in their name. For supporters, the public interest had been served by exposing the contradictions between what officials had been prepared to tell the public about their actions, especially with respect to the costly wars in Iraq and Afghanistan, and what they knew and said in private. Accordingly, Assange is lionised, and WikiLeaks is heralded as a glorious chapter in the history of freedom of information.

Detractors argued differently. Washington insisted that the disclosures not only endangered lives and threatened US operations abroad, but undermined its ability to do business with allies who would now be more wary of cooperating with the US in the fight against terrorism. Criticism of WikiLeaks was by no means limited to a red-faced US administration. Discerning commentators questioned the logic of casually dumping troves of documents onto the Internet seemingly with no regard for the content. Is the public interest really served by knowing that a US diplomat has likened the Russian prime minister Vladimir Putin and the Russian president Dmitry Medvedev to ‘Batman and Robin’, or that a junior State Department official discovered, apparently in total shock, that Italian premier Silvio Berlusconi had a penchant for ‘late nights’ and ‘partying hard’? Professor Frank Furedi has suggested that, whatever Assange or high-minded newspapers might claim, such decontextualised and tawdry scraps of information amount to voyeurism, not good journalism.² Following the law of unintended consequences, there is a strong possibility that the end result of WikiLeaks will be more, not less secrecy. If officials suspect that Assange or someone like him will shortly tout their private intimacies

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on the Internet, they will adopt practices and behaviour that are against the public interest. What they said in correspondence, they will now say in hushed tones; what they said in hushed tones, they will now not say at all. For future generations of historians, the end to a private sphere in government would spell disaster, since they would discover archives conspicuously lacking in documentary material.

WikiLeaks is not the subject of this book, but it does provide a useful touchstone by which to introduce the fundamental interrogative of this study: information control – defined by sociologist Richard Wilsnack as ‘the processes used to make sure that certain people will or will not have access to certain information at certain times’.³ WikiLeaks marked a stunning defeat of the US government’s ability to control classified information. For all its power and reach, Washington was undone by a disillusioned army intelligence analyst, Bradley Manning, said to have copied thousands of files from military servers onto blank CDs. To avoid detection, the lowly private first-class allegedly labelled the discs ‘Lady Gaga’ after the American pop singer, and pretended to sing along whilst performing the download. Significantly, the US was caught cold by technology. Assange’s skill was to harness technology to develop a system for disclosing secrets which, for now at least, the most powerful nation in the world appears unable to control. A truly transnational organisation, WikiLeaks is headquartered not in one country, but on the World Wide Web, thus rendering it immune from the laws of most countries. The site – a ‘digital drop box’ – allows anyone to post sensitive information under the cloak of anonymity.⁴ Moreover, the post hoc removal of leaked material is virtually impossible such is the speed with which the Internet spreads information. Despite talk of a cyber clampdown – perhaps in the form of extrajudicial financial blockades by sympathetic corporate intermediaries such as Amazon or MasterCard – for now the likelihood of Washington wresting back control is slim.

The core problem facing the US – how to keep sensitive material out of the public domain – is one that UK officials have grappled with throughout the last hundred years or so with varying degrees of success. In the post-1945 period, the issue became an obsession and all-consuming. In late 1945, as world war evolved into a precarious peace, and the Labour Party settled into office on a promise of welfare reform, the new prime minister, Clement Attlee, moved the matter to the front and centre of his government’s programme. In a private directive to colleagues, he underlined: ‘No government can be successful which cannot keep its

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secrets.’⁵ According to noted intelligence historian Richard J. Aldrich, Britain fought two ‘imperial’ campaigns after 1945: one was to defend its empire of colonies and protectorates; the other was to protect its ‘empire of secrecy’.⁶ The means by which this second empire was protected is the central concern of this book. Analogous to the pitched battles and bitter rearguard actions that accompanied the extinguishing of colonial fires after 1945, it is a story of struggle. Several key questions are addressed by this study. What secrets, if any, were exposed and by whom? To borrow Aldrich’s expression (and continue the imperial analogy), who were the most effective ‘shock troops’ that rolled back the frontiers of secrecy? What mechanisms existed to prevent disclosure? How successful were these mechanisms? Moreover, how did they evolve over time? In tracing the development of the British state’s obsession with shielding its programmes and activities from the gaze of public scrutiny, this book puts in long-term perspective the present-day battle between secret-keepers, electronic media and digital whistle-blowers.

The central argument of this book is twofold. First, the British state has generally been loath to preserve secrecy by taking offenders to court, preferring instead to use informal mechanisms of control. As Attlee explained in 1945, ‘the problem of secrecy cannot be solved by rules, however carefully drawn’.⁷ Typically, when confronted with an individual threatening the security of its classified information, the state has relied on making deals and devising pragmatic solutions behind the scenes. In most cases, it has tried to appeal to personal honour and conscience, in the hope of securing restraint. For example, in 1963 Her Majesty’s Government (HMG) discovered that David Irving, not then a controversial historian, had a chapter in his forthcoming book, *The Mare’s Nest*, which contained a stunning scoop: namely, the Ultra secret, the decryption of German communications by British codebreakers during the Second World War. Concerned that Ultra’s disclosure would undermine peacetime signals intelligence (sigint), officials invited Irving for a chat at the Cabinet Office where they asked him to consider the nation, be an ‘English gentleman’ and self-censor; he did so and the secret remained unrevealed until 1974.⁸ Such appeals were believed to be far more effective than the legal hammer. Most people, it was assumed, would sacrifice the self for the greater good when the strings of patriotism and gentlemanly spirit were gently pulled. Of course, this is not to contend that legislative action

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was never taken. The first five years of Margaret Thatcher's premiership saw the sweeping powers of Section 2 of the Official Secrets Act activated once every eighteen weeks.⁹ Overt censorship, however, tended to happen at the request of headstrong individuals, such as Thatcher, rather than the system as a whole. In short, it was not the Whitehall way.

Second, by the 1960s the state had concluded that maintaining absolute secrecy with respect to some of its work was not only impossible but also counterproductive. Although informal controls were effective in many cases, they were far from perfect, meaning that damaging disclosures – sensationalised and presented out of context – slipped through the cracks. With this, the state moved into the realm of 'offensive' information management, putting 'secrets' into the public domain on its own terms. The traditional 'defensive' approach of saying and releasing nothing was seen as too rigid. What was needed was flexibility. This shift led the state to sponsor official intelligence histories, written with the aid of classified material, as well as to sanction reminiscences by trusted veterans. Micro-managed by government departments so as not to injure national security or cause political embarrassment, such works were designed to offset the damage of leaks, as well as to pre-empt future revelations by unscrupulous individuals over whom the departments had little or no control. Carefully manicured accounts allowed governments to boost their standing in the public eye, since works were presented as emblematic of increased liberalisation. Moreover, they helped to deflect calls for potentially more revealing, more wide-ranging and ultimately more radical open government initiatives. In making this argument, this book builds on the work of Peter Gill, who, in an excellent article surveying changes in the oversight of the UK intelligence community in the 1990s, contends that the changes did not amount to a unilateral reduction of secrecy, but were instead a variation of information control from secrecy to 'persuasion'.¹⁰ Where this book differs from Gill's analysis is in saying that the shift began much sooner.

Who, then, had made life so difficult for the secret state that it felt compelled to retaliate with its own releases? In an age before web-based information clearing houses, it will be suggested, the biggest challenge to official secrecy came from 'insiders' and their memoirs. In the twentieth century, especially after 1945, it became increasingly common for retired public servants to want to leave a record of their careers. As we shall see, the motives were often transparently banal,

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pertaining to personal ambition and pecuniary gain. Politicians were the chief producers, but also getting in on the act were civil servants and even retired intelligence officers. Armed with privileged information, few were content to leave out critical details about their lives, especially if those details allowed them to burnish their reputations or set the record straight. Moreover, with publishers and newspapers offering vast sums for the revelation of secrets and first-class gossip about colleagues, authors had an added incentive to open up. The problem for officialdom was that many were simply too eminent to control. They comprised individuals who possessed impeccable Establishment credentials and who could name prestigious educational institutions as their alma mater. They included figures (nay, ‘Great Britons’) who had held the highest office and successfully led the country through the two defining conflicts of the modern era. Persons of such distinction commanded enormous respect from their institutional successors, propitiously the very people who were supposed to censor them. For reasons not hard to discern, the new generation was loath to crack the whip. Problematically, it was also the case that authors of status *expected* to get their own way. Stubborn and not easily intimidated, they acted as if the rulebook did not apply, comforted by the realisation that no one had the nerve to take stiffer action against them.

Investigative journalists provided the other main opposition to the strictures of official secrecy. In a departure from much of the existing literature on the British press in this period, I will argue that Fleet Street was far more challenging to the secret state than has been acknowledged. At the monographic level, the words of legendary Labour Foreign Secretary Ernest Bevin, who once famously said of UK journalists ‘why bother to muzzle sheep?’, have resonated strongly and the overall picture is one of press submission to information controls.¹¹ The media’s complicity in the Defence Notice (D-Notice) system is frequently taken as evidence of this. A compact in which journalists voluntarily receive guidance from the government on the suitability of publishing stories with national security implications, the century-old system, critics claim, is akin to ‘back-door’ censorship and goes against the very idea of a free press. According to Leonard Downie, a former editor of the *Washington Post*, such an arrangement would not be tolerated in the United States; indeed, it would be unconstitutional.¹² Scholarship has also entrenched the view that UK reporters,

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as well as being deferential to authority and enfeebled by controls, have struggled to match the detective skills and ferreting ability that are such distinctive features of muckraking political hacks in the United States. In the words of Anthony Sampson, the best-selling anatomist of modern Britain, ‘they find themselves severely restricted as to how much they can uncover; partly because of commercial limitations, but more importantly because of the growing difficulty of extracting the most crucial information from the secret recesses of government’.¹³

In what follows, a different assessment of media–state relations will be made. After 1945, it will be argued, the press gave Whitehall’s business managers a torrid time. Official files denied to earlier investigators, but now available at the National Archives, reveal a government machine at its wits’ end about how to stop mainstream journalists from finding sensitive information and breaking headline-grabbing stories. In this period, reporters devised ways of unearthing secrets that bypassed legal controls. They cultivated sources so senior and so distinguished that no government had the stomach to censor these conduits for fear of causing a scandal. With advances in air travel and communications, they prised information out of overseas contacts and libraries, especially in the United States where a tradition of openness was built into the polity. Certain journalists also possessed scientific education and training, allowing them to piece together remarkably accurate stories about top-secret matters, including atomic bomb development and signals intelligence. The notable American investigative journalists of recent times – Bob Woodward, Carl Bernstein and Seymour Hersh, to name but a few – are objects of hero worship, while their sources, such as the notorious garage-dweller known as Deep Throat, are the stuff of legend. Now is the moment to acclaim their counterparts across the pond – trailblazers such as Chapman Pincher, Duncan Campbell and Sir Harold Evans. In the face of strong opposition, and without the same constitutional protection afforded to US reporters, their achievements are extraordinary and deserve to be applauded.

Secret Britain: historiographical considerations

This book falls into an established body of literature that attempts to identify what makes the British state, in many ways unique among Western democracies, so secretive. Traditionally, works took their cue

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from Max Weber, the German sociologist, who considered secrecy as endemic to all administrative institutions. ‘Every bureaucracy’, he claimed, ‘seeks to increase the superiority of the professionally informed by keeping their knowledge and intentions secret.’¹⁴ According to this model, secrecy insulates officials from criticism and allows them to make decisions free of external pressures, whether from individuals looking to exploit information for personal gain or newspaperman looking to trivialise it. To quote Weber, ‘Bureaucratic administration always tends to be an administration of “secret sessions”: in so far as it can, it hides knowledge and action from criticism.’¹⁵ This ‘structural’ approach won many devotees. In their seminal work on the civil service, Peter Kellner and Lord Crowther-Hunt concluded: ‘The unspoken heart of the argument for closed government is that private debate among civil servants and ministers produces more rational policies. Wise men, cogitating quietly on the nation’s problems, will produce the right answers, if they are shielded from the hubbub of the political marketplace.’¹⁶ In *Whitehall*, Peter Hennessy, the fastidious connoisseur of modern government, referred to secrecy as ‘built into the calcium of a British policymaker’s bones’.¹⁷

In the past quarter-century, there has been a proliferation of exciting work on British secrecy, much of it advancing the original frame as it was supplied by Weber. Weber had said nothing, as he later admitted, about either the causes or modes of secrecy in particular national contexts. His approach lacked historical specificity and overestimated homogeneity between competing bureaucratic systems. In the 1980s, especially against the backdrop of Prime Minister Margaret Thatcher’s failed attempt to use the courts to stop the publication of *Spycatcher*, the memoir of MI5 renegade Peter Wright, it became popular for scholars to see secrecy as a consequence of legislation. Supplanting the ‘ideal type’ formulations to which Weber and his followers subscribed, works explored the manifold legislative constraints that criminalised the illicit release of information, the most important being the draconian Section 2 of the Official Secrets Act which made illegal the unauthorised dissemination of any government document, no matter how old or trivial.¹⁸ A consensus emerged that the effect of Section 2 should not be measured by the number of times it had been activated in the courtroom (an average of less than once per year since 1911),¹⁹ but by its inhibiting effect on the behaviour of government employees. In *The Frontiers of Secrecy*, David Leigh

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suggested that it worked *in terrrorem*, ‘frightening official[s] and inducing a “clearance mentality”’ that it was best to disclose nothing unless authorised to do so.²⁰ A similar picture had been painted by the then Cabinet Secretary, Burke Trend, when interviewed by Lord Franks in 1972: ‘I am not saying that you say to yourself “If I say something to X will I breach the Official Secrets Act?” But you are conscious that at the back of everything you say and do all day long there is a tremendous sanction.’²¹ In short, Section 2 made secrecy a largely mindless reflex, with the default rule being: ‘When in doubt, classify.’

Certainly, no crown servant could claim ignorance of the Act. One of the first things that a new entrant will do is ‘sign the Official Secrets Act’, a device of great symbolic value but which has no statutory force, since employees are bound by it whether they sign it or not.²² As Kellner and Crowther-Hunt put it, ‘The fact that tens of thousands of people each year “sign” the Act has almost nothing to do with national security; it has a great deal to do with indoctrinating civil servants into the culture of closed government.’²³ The standard declaration form – ‘Estasecret’ – was introduced during the Second World War. A decision was taken to keep the wording as simple as possible, inviting the reader’s attention to the key points. ‘It would take an experienced person a good while to get at the meaning of Section 2,’ conceded a War Office official in November 1944: ‘He certainly wouldn’t do it while waiting to sign “on the dotted” line and, unless he were a lawyer, he would probably not arrive at the right conclusions even if he were given a copy to read at leisure.’²⁴ Hardly a comment to inspire confidence!

The deterrent effect of Section 2 was also achieved with posters. Posters detailing the Act’s main provisions were hung in the buildings of government departments, particularly in depots, workrooms and storehouses where large numbers of industrial staff were located.²⁵ By the 1950s, the perceived importance of posters in ‘promoting secrecy’ (MI5’s words) had led to the establishment of a working party to consider everything from the layout to colour schemes.²⁶ With this, posters became ‘much shorter and much more striking’; typically, they included an image of a disciplinarian pointing the finger or gesticulating like a traffic warden.²⁷ One such poster stated: ‘The Official Secrets Act affects you. You must not talk about or pass on information about your work unless you are authorised to do so. You must not keep or copy any drawing or document unless it is your job to do so. You must take care

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not to lose any drawings or other documents. You must hand them back when they are finished with or asked for. Penalties for infringing the acts may be heavy.’²⁸

Studies of legislative controls eventually gave way to a much richer historiography proposing that the Official Secrets Act represented not the cause of secrecy in Britain, but a manifestation or symptom. In an important primer, Gavin Drewry and Tony Butcher argued that ‘legislation tells only part of the story. The rest is embedded in British political culture, constitutional conventions and the understandings and habits of civil service behaviour.’²⁹ Shifting the locus of enquiry away from the law, the majority of authors toiling in this area began to think and talk in terms of a ‘culture of secrecy’. The former civil servant Clive Ponting, himself the survivor of an unsuccessful prosecution under the Official Secrets Act in 1985, was the first to lend a new sharpness and depth to the debate: ‘A powerful and persistent culture of secrecy – reflecting the basic working assumption that good government is closed government and the public should only be allowed to know what the government decides they should know – was carried over from the nineteenth century and refined in the twentieth century when it was given statutory backing through Britain’s formidable secrecy laws.’³⁰ Devoting only a few passages to Section 2, Ponting sought to understand (or ‘diagnose’, to employ a favourite conceit of the field) this culture with reference to a raft of other official mechanisms to suppress information, including injunctions, confidentiality clauses, police search-and-seizure powers, and contempt-of-court laws.

The principal object of study for this new wave of literature was the civil service, an intensely culture-bound organisation, underpinned by almost invisible patterns of behaviour and values, but where secrecy was widely recognised as an essential feature of good government. True to the precepts of normative constitutional theory, many scholars argued that secrecy in Whitehall stemmed from the structure of the political system, principally the doctrine of ministerial responsibility which dictates that the exposition of policy is the sole responsibility of ministers and that civil servants are neither publicly identified with the work of their department, nor, when blame is apportioned, accountable for their actions. Like doctors, obligated never to breach the confidences of their patients, they are entrusted to keep the secrets to which they become privy. More adventurously, others sought to link the preference for ‘closed government’ to the social composition of the service. In the